

REMARKS

This Amendment responds to the Office Action of November 19, 2003.

The specification has been amended to correct minor typographical errors.

Claims 1-19, 22-40, and 43-50 remain in this application. Claims 20, 21, 41, and 42 have been canceled.

In the Office Action, the Examiner has rejected claims 1-2, 4-8, 10-19, 22-29, 31, 35-48, and 50 under 35 U.S.C. § 103(a) as being unpatentable over Sampson et al. (U.S. Patent No. 5,802,499) and the "Wall Street Letter" article obtained from the Proquest database. Claims 3, 32-34, and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sampson et al. (U.S. Patent No. 5,802,499) and the "Wall Street Letter" article, in further view of Aziz et al. (U.S. Patent No. 6,018,721). Claims 9, 18, 20, 21, 26, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sampson et al. (U.S. Patent No. 5,802,499) and the "Wall Street Letter" article in further view of Kirksey (U.S. Patent No. 6,460,021). The Examiner also rejected Claims 40-50 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The Examiner also rejected Claims 1-30, 35-37, and 39-50 under 35 U.S.C. § 101 as directed to non-statutory subject matter. These bases for rejection are addressed below.

Claim Rejections - 35 U.S.C. § 112

The Examiner rejected Claims 40-50 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, the Examiner has stated that it is "unclear how a geographic area contains information or display information as claimed." (November 19 Office Action at 2.)

Applicants have amended Claims 40-50 to remove the "geographic area" claim language to address the Examiner's rejection.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 1-2, 4-8, 10-19, 22-29, 31,35-48, and 50: Sampson et al. (US Patent No. 5,802, 499) and the "Wall Street Letter Article"

The Examiner rejected claims 1-2, 4-8, 10-19, 22-29, 31, 35-48, and 50 under 35 U.S.C. § 103(a) as being unpatentable over Sampson et al. (U.S. Patent No. 5,802,499) and the "Wall Street Letter" article obtained from the Proquest database entitled "BOTCC to accept shares of stock as margin." Applicants respectfully traverse the rejection.

The Examiner found that Sampson et al. "disclose the identifying, quantifying and determining steps." (Office Action at 2-3.) The Examiner acknowledged that "[m]anaging leverage relating to the collateral to offset the exposure is not specifically taught by Sampson et al," but that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the Wall

Street Letter into Sampson et al in order to minimize the potential losses of a lender.”

(*Id.* at 3.)

The combination of Sampson et al and the “Wall Street Letter” do not explicitly or inherently disclose, teach, or suggest having the aggregate net exposure “quantified using cross-product and cross-agreement netting” as recited in currently amended claims 1-19, 22, 27-30, 31-40, and 43-50. The combination of Sampson et al and the “Wall Street Letter” do not explicitly or inherently disclose, teach, or suggest having the aggregate net exposure quantified using “cross-entity exposure netting” as recited in currently amended claim 9.

Sampson et al disclose a computer-based system for managing bilateral credit support agreements between parties engaged in derivatives and other financial markets. (Sampson et al, Col. 2, l. 27-31.) But Sampson et al do not explicitly or inherently disclose, teach, or suggest quantifying aggregate net exposure using “cross-product and cross-agreement netting.”

The “Wall Street Letter” article reports on a 1998 announcement of the Board of Trade Clearing Corp. (the independent clearing house for transactions made at the Chicago Board of Trade) that it will soon accept stock to satisfy minimum margin requirements. The “Wall Street Letter” article does not explicitly or inherently disclose, teach, or suggest quantifying aggregate net exposure using “cross-product and cross-agreement netting.”

The Examiner acknowledges that the combination of Sampson et al and the “Wall Street Letter” “does not explicitly teach ‘computing net exposure values separately for financial product groupings and accumulating product grouping totals according to a parent entity’” as recited in claim 22. The Examiner instead asserts that it “is noted that there exists a plurality of types of financial product groupings” and that “[a]ccumulating product grouping totals according to a parent entity would have been obvious to one of ordinary skill in the art in the combination of Sampson et al and the ‘Wall Street Letter’ in order to create a well presented and organized report detailing all types of product groupings.” (Office Action at 3.)

But there is no suggestion or motivation to modify the teachings of Sampson et al and the “Wall Street Letter” to produce “computing net exposure values separately for financial product groupings and accumulating product grouping totals according to a parent entity” as recited in Claim 22, or to produce “accumulating market product segments forming a composite of exposure across market segments” as recited in claim 23.

Applicants respectfully submit that the Examiner has not established the requisite factual foundation supporting the assertion that one of ordinary skill in the art would have known how to modify the combination of Sampson et al and the “Wall Street Letter” to produce “computing net exposure values separately for financial product groupings and accumulating product grouping totals according to a parent entity” as recited in Claim 22,

or to produce “accumulating market product segments forming a composite of exposure across market segments” as recited in claim 23.

The combination of Sampson et al and the “Wall Street Letter” do not explicitly or inherently disclose “settling a trade consummating a financial deal relating to a particular market segment” and “monitoring exposure levels across market segments to determine if exposure remains within a predetermined tolerance” as recited in claim 24. The combination of Sampson et al and the “Wall Street Letter” also do not teach or suggest “settling a trade consummating a financial deal relating to a particular market segment” and “monitoring exposure levels across market segments to determine if exposure remains within a predetermined tolerance” as recited in claim 24.

The combination of Sampson et al and the “Wall Street Letter” also do not explicitly or inherently disclose, teach, or suggest “identifying a market segment; quantifying an aggregate net exposure resulting from positions relating to the identified market segment; determining a value for collateral dedicated to offset the net exposure; and valuing exposure for the market segment” as recited in claims 25 and 26.

It is respectfully submitted that the combination of Sampson et al and the “Wall Street Letter” article do not anticipate or render obvious the subject matter of currently amended claims 1-19, 22-40, and 43-50. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 3, 32-34, and 49: Sampson et al and "Wall Street Letter" In View Of Aziz et al.

The Examiner rejected claims 3, 32-34, and 49 under 35 U.S.C. § 103(a) as being unpatentable over Sampson et al. (U.S. Patent No. 5,802,499) and the "Wall Street Letter" article, in further view of Aziz et al. (U.S. Patent No. 6,018,721). Applicants respectfully traverse the rejection.

Aziz et al disclose a system and method for the management and tracking of collateral using a computer system. (Aziz et al, Col. 2, l. 14-16.)

The Examiner acknowledges that the combination of Sampson et al and the "Wall Street letter" article do not "explicitly state the exposure is quantified as a monetary value in a local currency." (Office Action at 4-5.) The Examiner asserts that this missing teaching is found in Aziz et al. (*Id.*)

The Examiner also acknowledges that that the combination of Sampson et al and the "Wall Street letter" article do not "explicitly teach a data management engine operative according to programmable code to process conditional values based upon market conditions and perform currency translations." The Examiner asserts that this missing teaching is found in Aziz et al, which discloses "assessing the risk associated with . . . holding securities in currencies other than the liability currency." (Office Action at 5 (citing Aziz et al, Abstract).)

The examiner also asserts that "[a]s per claim 34, providing an event notification engine to receive and publish information in the combination of Sampson et al, the 'Wall Street Letter' and Aziz would have been obvious to one of ordinary skill in the art at the

time the invention was made to include therein in order to provide users with current and updated news relating to their account.” (Office Action at 6.)

Applicants respectfully submit that the Examiner has not established the requisite factual foundation supporting the assertion that one of ordinary skill in the art would have known how to modify the combination of Sampson et al and the “Wall Street Letter” to produce claims 3, 32-34, and 49.

In any event, Aziz et al does not explicitly or inherently disclose, teach, or suggest quantifying aggregate net exposure using “cross-product and cross-agreement netting.” Thus, the combination of Sampson et al and the “Wall Street Letter” article, in view of Aziz et al also do not explicitly or inherently disclose, teach, or suggest having the aggregate net exposure “quantified using cross-product and cross-agreement netting” as recited in currently amended claims 1-19, 22, 27-30, 31-40, and 43-50.

It is therefore respectfully submitted that the combination of Sampson et al and the “Wall Street Letter” article in further view of Aziz et al do not anticipate or render obvious the subject matter of currently amended claims 1-19, 22-40, and 43-50.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 9, 18, 20, 21, 26, and 30:: Sampson et al and “Wall Street Letter” in Further View Of Kirksey et al.

The Examiner rejected claims 9, 18, 20, 21, 26, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Sampson et al. (U.S. Patent No. 5,802,499) and the “Wall Street Letter” article in further view of Kirksey et al (U.S. Patent No. 6,460,021).

Applicants respectfully traverse the rejection.

The Examiner acknowledges that the combination of Sampson et al and the “Wall Street Letter” fails to explicitly teach “calculating an aggregate exposure accumul[ation] comprising cross-entity exposure netting, cross-product exposure netting, and cross-agreement exposure netting” as recited in original claim 9, but asserts that this missing teaching is found in Kirksey et al. Applicants respectfully disagree with this analysis.

Kirksey et al disclose a method of creating and selling marketable collateral backed debt instruments comprising creating a debt-instrument-issuing-entity which lends mortgage or other lien-backed monies to a group of property owners each owning his or her property in a fee simple or other mortgageable or transferable interest in property against which a lien may be placed. (Kirksey et al, col. 1, l. 52-57.)

There is no motivation to combine Sampson et al and the “Wall Street Letter” with Kirksey et al in the manner that the Examiner suggests. The method disclosed in Kirksey et al is completely unrelated to methods and systems for managing and monitoring leverage related to financial transactions in multiple market segments by “calculating an aggregate exposure accumul[ation] comprising cross-entity exposure netting, cross-product exposure netting, and cross-agreement exposure netting” as recited in original claim 9.

Even if one of ordinary skill in the art would combine the Kirksey et al with Sampson et al and the “Wall Street Letter” in the manner that the Examiner suggests, the combination would not teach the elements of currently amended claims 1-19, 22, 27-30, 31-40, and 43-50. Kirksey et al has nothing to do with and does not explicitly or

inherently disclose, teach, or suggest having the aggregate net exposure “quantified using cross-product and cross-agreement netting” as recited in currently amended claims 1-19, 22, 27-30, 31-40, and 43-50.

Applicants also respectfully submit that the Examiner has not provided sufficient factual support that the combination of Sampson et al and the “Wall Street Letter,” in view of Kirksey et al, discloses, teaches, or suggests all of the limitations of claims 18 or 26, as currently amended. The Examiner has not provided any factual support for the assertion that “ an online auction would have bee obvious to the skilled artisan in order to provide a flexible system and making the system available and attractive to various types of businesses.”

The combination of Sampson et al and the “Wall Street Letter” article in further view of Kirksey et al does not anticipate or render obvious the subject matter of currently amended claims 1-19, 22-40, and 43-50. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claim Rejections - 35 U.S.C. § 101

The Examiner also rejected Claims 1-30, 35-37, and 39-50 under 35 U.S.C. § 101 as directed to non-statutory subject matter, reasoning that the invention must be “within the technological arts” and produce “a useful, concrete and tangible result.” (Office Action at 7.) Specifically, the Examiner stated that “claims 1-30, 35-37 and 39-50 do not recite any structure or functionality to suggest that a computer performs the recited claims.” (*Id.* at 8.)

Applicants believe that both the original claims and current claims 1-19, 22-30, 35-37, and 39-50 are addressed to statutory subject matter under 35 U.S.C. § 101 because the subject matter of those claims produces “a useful, concrete and tangible result.” *State Street Bank & Trust v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998), *cert. denied*, 525 U.S. 1093 (1999). There is no requirement under Section 101 that claimed subject matter be limited to the “technological arts.”

For purposes of expediting the prosecution of this application, however, Applicant has amended claims 1-19, 22-30, 35-37, and 39-50, without prejudice, to recite that a computer performs the recited claims. The specification supports the amendment. (See, e.g., pp. 17-22, Figs. 8 and 9.) This amendment is believed to bring independent Claim 1 and all claims dependent thereon within the “technological arts” to overcome the Section 101 rejection.

Conclusion

In light of the foregoing amendments and remarks, Applicants believe that the application is in a proper format for allowance of all claims and earnestly solicit a notice to that effect.

Respectfully submitted,

PROSKAUER ROSE LLP
Attorneys for Applicants

By John C. Stellabotte
John C. Stellabotte
Reg. No. 47,969

Date: May 18, 2004

PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036-8299
Telephone: (212) 969-3000